

Office of the Secretary of the Treasury

§ 10.64

under section 6212 of the Internal Revenue Code and the regulations thereunder) of the respondent or the respondent's authorized representative, or

(3) As provided in paragraphs (a)(3)(ii) and (a)(3)(iii) of this section.

(c) *Service of papers on the Director of the Office of Professional Responsibility.* Whenever a paper is required or permitted to be served on the Director of the Office of Professional Responsibility in connection with a proceeding under this part, the paper will be served on the Director of the Office of Professional Responsibility's authorized representative under § 10.69(a)(1) at the address designated in the complaint, or at an address provided in a notice of appearance. If no address is designated in the complaint or provided in a notice of appearance, service will be made on the Director of the Office of Professional Responsibility, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

(d) *Service of evidence in support of complaint.* Within 10 days of serving the complaint, copies of the evidence in support of the complaint must be served on the respondent in any manner described in paragraphs (a)(2) and (3) of this section.

(e) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a proceeding under this part, the original paper, plus one additional copy, must be filed with the Administrative Law Judge at the address specified in the complaint or at an address otherwise specified by the Administrative Law Judge. All papers filed in connection with a proceeding under this part must be served on the other party, unless the Administrative Law Judge directs otherwise. A certificate evidencing such must be attached to the original paper filed with the Administrative Law Judge.

(f) *Effective/applicability date.* This section is applicable to complaints brought on or after September 26, 2007.

[T.D. 9011, 67 FR 48765, July 26, 2002, as amended by T.D. 9359, 72 FR 54544, 54552, Sept. 26, 2007]

EFFECTIVE DATE NOTE: At 76 FR 32309, June 3, 2011, § 10.63 was amended by revising paragraphs (c) and (f), effective Aug. 2, 2011. For

the convenience of the user, the revised text is set forth as follows:

§ 10.63 Service of complaint; service of other papers; service of evidence in support of complaint; filing of papers.

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(c) *Service of papers on the Internal Revenue Service.* Whenever a paper is required or permitted to be served on the Internal Revenue Service in connection with a proceeding under this part, the paper will be served on the Internal Revenue Service's authorized representative under § 10.69(a)(1) at the address designated in the complaint, or at an address provided in a notice of appearance. If no address is designated in the complaint or provided in a notice of appearance, service will be made on the office(s) established to enforce this part under the authority of § 10.1, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

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(f) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

§ 10.64 Answer; default.

(a) *Filing.* The respondent's answer must be filed with the Administrative Law Judge, and served on the Director of the Office of Professional Responsibility, within the time specified in the complaint unless, on request or application of the respondent, the time is extended by the Administrative Law Judge.

(b) *Contents.* The answer must be written and contain a statement of facts that constitute the respondent's grounds of defense. General denials are not permitted. The respondent must specifically admit or deny each allegation set forth in the complaint, except that the respondent may state that the respondent is without sufficient information to admit or deny a specific allegation. The respondent, nevertheless, may not deny a material allegation in the complaint that the respondent knows to be true, or state that the respondent is without sufficient information to form a belief, when the respondent possesses the required information. The respondent also must state affirmatively any special matters of defense on which he or she relies.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation

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in the complaint that is not denied in the answer is deemed admitted and will be considered proved; no further evidence in respect of such allegation need be adduced at a hearing.

(d) *Default.* Failure to file an answer within the time prescribed (or within the time for answer as extended by the Administrative Law Judge), constitutes an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make the decision by default without a hearing or further procedure. A decision by default constitutes a decision under § 10.76.

(e) *Signature.* The answer must be signed by the respondent or the respondent's authorized representative under § 10.69(a)(2) and must include a statement directly above the signature acknowledging that the statements made in the answer are true and correct and that knowing and willful false statements may be punishable under 18 U.S.C. 1001.

EFFECTIVE DATE NOTE: At 76 FR 32309, June 3, 2011, § 10.64 was amended by revising paragraph (a) and adding paragraph (f), effective Aug. 2, 2011. For the convenience of the user, the added and revised text is set forth as follows:

§ 10.64 Answer; default.

(a) *Filing.* The respondent's answer must be filed with the Administrative Law Judge, and served on the Internal Revenue Service, within the time specified in the complaint unless, on request or application of the respondent, the time is extended by the Administrative Law Judge.

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(f) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

§ 10.65 Supplemental charges.

(a) *In general.* The Director of the Office of Professional Responsibility may file supplemental charges, by amending the complaint with the permission of the Administrative Law Judge, against the respondent, if, for example—

(1) It appears that the respondent, in the answer, falsely and in bad faith, denies a material allegation of fact in the complaint or states that the respondent has insufficient knowledge to form a belief, when the respondent possesses such information; or

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(2) It appears that the respondent has knowingly introduced false testimony during the proceedings against the respondent.

(b) *Hearing.* The supplemental charges may be heard with other charges in the case, provided the respondent is given due notice of the charges and is afforded a reasonable opportunity to prepare a defense to the supplemental charges.

(c) *Effective/applicability date.* This section is applicable on September 26, 2007.

[T.D. 9359, 72 FR 54552, Sept. 26, 2007]

EFFECTIVE DATE NOTE: At 76 FR 32309, June 3, 2011, § 10.65 was amended by revising paragraphs (a) and (c), effective Aug. 2, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 10.65 Supplemental charges.

(a) *In general.* Supplemental charges may be filed against the respondent by amending the complaint with the permission of the Administrative Law Judge if, for example—

(1) It appears that the respondent, in the answer, falsely and in bad faith, denies a material allegation of fact in the complaint or states that the respondent has insufficient knowledge to form a belief, when the respondent possesses such information; or

(2) It appears that the respondent has knowingly introduced false testimony during the proceedings against the respondent.

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(c) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

§ 10.66 Reply to answer.

The Director of the Office of Professional Responsibility may file a reply to the respondent's answer, but unless otherwise ordered by the Administrative Law Judge, no reply to the respondent's answer is required. If a reply is not filed, new matter in the answer is deemed denied.

EFFECTIVE DATE NOTE: At 76 FR 32309, June 3, 2011, § 10.66 was revised, effective Aug. 2, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 10.66 Reply to answer.

(a) The Internal Revenue Service may file a reply to the respondent's answer, but unless otherwise ordered by the Administrative Law Judge, no reply to the respondent's answer is required. If a reply is not filed, new matter in the answer is deemed denied.